

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA	:	Criminal Case No. 8:15-cr-00313
	:	
v.	:	ORDER TO PRODUCE
	:	EXHIBITS FOR REWEIGHING
CHRISTOPHER BASKIN	:	BY DEFENSE
	:	

UPON THE DEFENDANT'S MOTION for an order that requires the Government to produce, for inspection and weighing by a defense expert, all controlled substance exhibits the Government intends to introduce in its case-in-chief,

AND UPON THIS COURT'S CONSIDERATION of the arguments and pleadings filed,

IT IS HEREBY ORDERED AND DECREED, in accordance with Fed. R. Crim. P. 16(a)(1)(E), that the Government shall allow the defense expert to inspect and weigh those exhibits identified as LIMS numbers 2015-SFL5-00530 and 2015-SFL5-00480 exhibit numbers 8 and 9; and

IT IS FURTHER ORDERED that the Government shall deliver, in its discretion and in a manner consistent with the type and quantity of controlled substance at issue, and considering the defense expert's proximity to the Drug Enforcement Administration (DEA) laboratory, those exhibits identified above to the defense expert. The defense expert is specifically identified as Amanda Andrews and the laboratory at which the reweighing will occur is specifically identified as NMS Labs at 2300 Stratford Avenue, Willow Grove, PA, 19090. The defense expert shall possess and present in advance, as a prerequisite to the delivery of the exhibit(s), a current and valid DEA registration (RN-0370306) sufficient to perform the inspection and weighing(s) of the schedule of

controlled substance at issue, in accord and in full compliance with the applicable DEA registration procedures, found at 21 C.F.R. § 1301.11 *et seq.*; and

IT IS FURTHER ORDERED that upon delivery of the exhibit(s) to the defense expert, the expert shall conduct the inspection and weighing(s) ordered herein and shall provide the Government a Declaration Under Penalty of Perjury pursuant to 28 U.S.C. § 1746. The Declaration will be executed by the expert who conducted the inspection and weighing(s) and will state the weight of each exhibit received from the Government; and

IT IS FURTHER ORDERED, in accordance with Fed. R. Crim. P. 16(b)(1)(B), that the defendant shall provide the Government with a copy of the results or reports of the inspections and weighing(s) provided under this Order; and

IT IS FURTHER ORDERED, that:

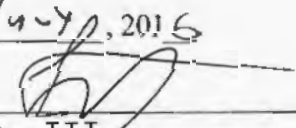
- (1) The inspection and weighing(s) of the exhibit(s) identified in this Order will be conducted first and separately from any retesting order permitting qualitative analyses of the exhibit(s) by a defense expert, if such a separate order is entered;
- (2) The defense expert shall coordinate with the Government a convenient date and time for the inspection and weighings ordered herein, which date shall be within thirty (30) days of the date of this Order;
- (3) The defense expert's inspection and weighing(s) shall be observed by a Government law enforcement officer, who will remain with the exhibit(s) until the weighing is complete;
- (4) All original packaging material to include the evidence envelope must be returned, and to the extent applicable, the defense expert is responsible for

repackaging the exhibit, along with all original packaging material in a single heat-sealed envelope or bag, which heat-sealed envelope shall be placed in a separate heat-sealed envelope or bag, which shall be secured in such a manner that tampering will be readily observable;

- (5) To the extent applicable, the defense expert shall execute any DEA forms necessary to receive temporary possession of the exhibit(s), including a Form DEA-12 (Receipt for Cash Or Other Items); and that
- (6) The defense expert shall, immediately upon completion of the inspection and weighing ordered herein, return the exhibit(s) to the accompanying Government law enforcement officer, who shall maintain custody of the exhibit(s) and deliver them to a safe and secure location for storage.

Any failure to follow the aforementioned procedures will render the re-weighing results scientifically unreliable, as those terms are used in the Federal Rules of Evidence. In addition, any failure by the defense to maintain the proper chain-of-custody during the reweighing will not render DEA Laboratory No(s). 2015-SFL5-00530 and 2015-SFL5-00480, Exhibit Number(s) 8 and 9 inadmissible for this reason.

SO ORDERED THIS 11 day of July, 2016

  
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F.A. Gossett, III  
United States Magistrate Judge